

P-407/CP-90-547 ORDER ADOPTING RATES FOR POLLING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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In the Matter of a Petition for
Extended Area Service From the
Loman Exchange to the
International Falls, Ericsburg,
and Ranier Exchanges

ISSUE DATE: March 25, 1992

DOCKET NO. P-407/CP-90-547

ORDER ADOPTING RATES FOR POLLING

PROCEDURAL HISTORY

On July 26, 1990, subscribers in the Loman exchange filed a petition for extended area service (EAS) to the International Falls, Ranier, and Ericsburg exchanges. All four exchanges were served by Contel of Minnesota, Inc., now named GTE Minnesota, Inc. (GTE).

On April 26, 1991, the Commission found that Loman was not adjacent to the Ranier and Ericsburg exchanges but that due to its adjacency to International Falls it was adjacent to the local calling area consisting of the International Falls, Ranier and Ericsburg exchanges. Accordingly, the Commission issued an Order requiring Contel (now operating as GTE) and U S West Communications, Inc. (USWC), the company providing intra-Lata toll service between these exchanges, to file cost studies and proposed rates for the proposed routes.

On April 27, 1991, Contel (now GTE) filed its cost studies and proposed rates for the Loman to International Falls-Ranier-Ericsburg calling area.

On July 22, 1991, the Minnesota Department of Public Service (the Department) filed its Report and Recommendation.

On January 3, 1992, the Commission requested the parties to comment on the calculation of rates in light of the Commission's November 21, 1991 Order regarding the statutory term "affected telephone companies". In its November 21, 1991 Order, the Commission found that when the legislature used the phrase "affected telephone company" in Minn. Stat. § 237.161, subd. 3 (b) (1990) it did not intend to refer to IXCs that carry toll traffic over proposed EAS routes.

On January 16, 1992, the Department responded, urging that in setting Loman's EAS rates for polling the Commission treat USWC as an "affected telephone company" and apportion EAS costs between Loman and the petitioned exchanges on a 75/25 percent basis.

On March 10, 1992, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

In its April 26, 1991 Order in this matter the Commission found that the petition met the threshold criteria: adjacency and adequate traffic. The Commission will now proceed to set rates that will appear on the ballots distributed to Loman subscribers to determine whether the petition meets the final criterion: adequate subscriber support.

The issues before the Commission in setting the rates are:
1) whether USWC is an affected telephone company whose income, therefore, must remain unchanged by the installation of EAS and
2) what percentage of the cost of installing EAS should be recovered in Loman's rates.

USWC is not an "Affected Telephone Company"

In this case, USWC does not serve any involved exchange as a local exchange company but simply provides intraLATA toll service between these companies. When the EAS statute is read properly, i.e. as a whole, it is clear that the legislature did not intend to apply the term "affected telephone company" to such a company nor to require that EAS rates be set to maintain the income neutrality of such a company. The statute focuses entirely on EAS as a local service. The term "interexchange company" appears nowhere in the entire statute. On the contrary, terms evincing a local focus appear throughout the statute, e.g. "exchange," "local calling area," "the telephone company serving the petitioning exchange," a list of costs incurred by a local exchange company installing EAS, "the petitioning exchange," "the telephone company serving the added exchange," "a local telephone exchange that is newly included," "a telephone company that provides local telephone service in an exchange that is included."

In these circumstances, it would be unreasonable to assume that the legislature abruptly switched focus in Section 3(b) and intended a characterizing phrase ("affected telephone company")

to include a company whose sole relationship to the exchanges in question is as an IXC.¹

Accordingly, the Commission will require Loman's EAS rates to be calculated without regard to the income USWC has experienced as an IXC between these exchanges.

Loman's EAS Rates Shall Recover 50% of the EAS Costs

With respect to the apportionment of EAS costs, the EAS statute divides EAS petitions into two groups: petitions for EAS to the metropolitan calling area and all other EAS petitions. For petitions to the metropolitan calling area the statute mandates that the petitioning exchange rates defray 75% of the costs of providing EAS. For other petitions, however, the statute leaves to the sound discretion of the Commission what percentage (between 50 and 75%) of EAS costs the petitioning exchange will be required to defray in its rates.

Minn. Stat. § 237.161, subd. 3 (a) (1990) states in pertinent part:

When the proposed extended service area is not the metropolitan calling area, the commission shall determine the apportionment of costs, provided that between 50 and 75 of the costs must be allocated to the petitioning exchange.

The Department argued that because the EAS implementation process allows Loman subscribers to vote whether EAS will be installed but denies the same opportunity to subscribers in the petitioned local calling area, it is fair that Loman defray the maximum statutory amount of EAS costs, 75% of those costs. The Commission also notes that traffic studies indicate that many more Loman subscribers call the International Falls local calling area than the other way around. This perhaps suggests that Loman subscribers will receive the bulk of the benefit of the proposed EAS, again supporting the maximum (75%) cost allocation to Loman. The Commission does not find these considerations dispositive in this case.

¹ The Commission reached a similar conclusion in In the Matter of a Petition for Extended Area Service From the Hokah Exchange to the La Crosse, Wisconsin Calling Area, Docket No. P-401/CP-89-951, ORDER DETERMINING STATUS OF INTEREXCHANGE CARRIERS UNDER MINN. STAT. § 237.161, SUBD. 3 (B) (1990) (November 26, 1991).

The Voting/Payment Link: The legislature did not establish a link between voting and payment of 75% of the costs. According to the statutory process, subscribers in the petitioning exchange are the only subscribers polled in all cases. Knowing this, the legislature clearly stated that rates for non-metro petitions could be set between 50 and 75 percent. This indicates that the legislature intended other factors to control the percentage of cost to be allocated to the petitioning exchange.

Benefit/Burden Balancing: The benefits to be derived from the proposed EAS are not totally one-sided. Analysis of the benefit must take into account not only the location of subscribers currently placing calls between the petitioning and petitioned exchanges, but must also consider the value to the petitioned exchanges of the additional calls from the petitioning exchange that EAS will stimulate. Moreover, it is likely that the proposed EAS will also stimulate additional calling from the petitioned exchanges to the petitioning exchange.

In addition, the Commission believes that an analysis of who benefits from the installation of the proposed EAS must be balanced with consideration of the relative burden to be borne by subscribers in the involved exchanges under a 75 percent versus a 50 percent cost allocation.

Regarding the burden of absorbing the costs of providing the proposed EAS, it is clear that in this case that the Loman subscriber's burden of providing EAS rises precipitously compared to the increase in the burden to subscribers in the petitioned exchanges when more than 25% of the cost are recovered in their rates. This is due to the vastly smaller number of Loman subscribers available to absorb such costs. The rates resulting from a 50/50 cost split and a 75/25 percent cost allocation are as follows:

LOMAN EXCHANGE

Split 75% to 25%

	Current	EAS Additive	Total	% Increase
Res.	\$14.85	\$32.40	\$47.25	218%
Bus.	\$31.10	\$64.80	\$95.90	208%

Split 50% to 50%

	Current	EAS Additive	Total	% Increase
Res.	\$14.85	\$21.60	\$36.45	145%
Bus.	\$31.10	\$43.20	\$74.30	139%

INTERNATIONAL FALLS CALLING AREA

Split 75% to 25%

	Current	EAS Additive	Total	% Increase
Res.	\$14.85	\$ 0.18	\$15.03	1%
Bus.	\$31.10	\$ 0.36	\$31.46	1%

Split 50% to 50%

	Current	EAS Additive	Total	% Increase
Res.	\$14.85	\$ 0.35	\$15.20	2%
Bus.	\$31.10	\$ 0.70	\$31.80	2%

These figures illustrate the remarkable discrepancy of burden due to the relative sizes of the Loman and the petitioned exchanges. For example, if the Commission apportioned 50% of the EAS costs to Loman, Loman's residential rates would be 30 percent lower, i.e. \$10.80 lower than if the Commission apportioned 75 percent of the EAS costs to Loman. At the same time, apportioning 50% of the EAS costs to the petitioned exchanges would result in residential rates for those exchanges that were only 1 percent higher, i.e. 18 cents higher than if they were assigned the statutory minimum EAS costs, 25 percent.²

Weighing the benefits and burdens of the proposed EAS within the statutory framework, the Commission concludes that in this case a 50/50 allocation of EAS expenses results in fair and equitable rates. The Commission will adopt for polling rates that are structured on that basis. The rates thus adopted are consonant with the legislature's intent to promote the opportunity for EAS in Minnesota without unfairly burdening any exchange.

Other Preparation for Polling

The polling process will be similar to that used for polling the eight metropolitan area exchanges in 1991. To facilitate this process, GTE will provide an accurate customer list and associated information to Commission Staff who will proceed to prepare ballots and explanatory material and conduct the polling.

² The phrasing of this example does not indicate that the Commission believes that a 75/25 percent cost split that is the presumptively correct ratio that will only be changed if that presumption can be overcome. The statute creates no such presumption. Advocates of ratios within the statutory 50-75 percent range bear the same burden of persuasion, i.e. that their proposed ratio results in rates that are fair and equitable.

ORDER

1. Rates that do not treat U S West Communications, Inc. (USWC) as an "affected telephone company" pursuant to Minn. Stat. § 237.161, subd. 3 (1990) and that do allocate 50 percent of the costs of providing the proposed extended area service (EAS) to the petitioning exchange (Loman) and 50% of such costs to the petitioned exchanges (International Falls, Ranier, and Ericsburg) are hereby adopted for polling.
2. GTE Minnesota shall cooperate fully with Commission Staff and Commission contractors to expedite the polling of Loman subscribers. As part of such cooperation, upon request GTE shall provide Commission Staff with a customer list and associated information for the Loman exchange in timely fashion.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)